

Application No. 09/696,860
Filed: October 26, 2000
Group Art Unit: 2123

REMARKS

The instant remarks are filed in response to the official action dated June 18, 2003. Reconsideration is respectfully requested.

The disposition of the claims is as follows.

Claims 1-21 are pending in the application.

Claims 1-21 stand rejected.

The Examiner has rejected claims 1-21 under 35 U.S.C. 103(a) as being unpatentable over Alden et al. (USP 6,101,543). Specifically, as per base claim 1, the official action indicates that the Alden reference discloses a pseudo network adaptor having feature limitations that are substantially similar to the claimed invention. The official action further indicates that although Alden et al. do not expressly disclose network node executable images, as recited in claim 1, a practitioner in the art at the time of the invention would have found Alden network emulators with code components for processing data, encrypting data, transporting, etc., in a data communication network as obviously implying the claimed limitation of images of executable code. The Applicants respectfully submit, however, that the official action

-2-

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVITZ LLP
TEL. (617) 542-2290
FAX. (617) 451-0313

Application No. 09/696,860
Filed: October 26, 2000
Group Art Unit: 2123

fails to establish a *prima facie* case of obviousness and therefore the rejections of the claims are improper and should be withdrawn.

It is well settled that a *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. Because the Alden reference neither teaches nor suggests the claimed subject matter, and because the Alden reference itself fails to teach any desirability of modifying the reference as suggested in the official action, the rejection of claims 1-21 cannot be sustained.

Specifically, the Applicants' claimed system and method solve the problem of supporting the testing of large numbers of complex networking devices using code that is not modified from the form in which it would be used within actual networking devices (see page 3, lines 14-18, of the application). To that end, the Applicants' claimed system comprises a network emulator that employs a number of network node executable images, each image corresponding to an emulated networking device representing a physical networking device such as an optical switch. Further, each network node executable image includes code that is operable

Application No. 09/696,860
Filed: October 26, 2000
Group Art Unit: 2123

to execute without modification on the physical networking device (see page 3, line 24, to page 4, line 1, of the application).

In contrast, the Alden reference addresses the problem of providing secure communications over a network. To that end, Alden et al. disclose a pseudo network adapter that provides a virtual private network. The pseudo network adapter includes an interface for capturing packets from a local communications protocol stack for transmission on the virtual private network. The interface appears to the local communications stack as a network adapter device driver for a network adapter (see column 1, lines 6-7, and column 3, lines 2-8, of Alden et al.).

The Applicants respectfully submit that the problem solved by the Applicants' claimed system and method, which relates to testing and validation of computer network equipment and software, is significantly different from the problem addressed in the Alden reference, which relates to providing secure network communications. Because the nature of the problems addressed by the Applicants and Alden et al. are significantly different, the teachings of Alden et al. would not have motivated one of ordinary skill in the art to modify the Alden system to obtain the Applicants claimed system and method. Accordingly, the Applicants

A. Application No. 09/696,860
Filed: October 26, 2000
Group Art Unit: 2123

respectfully submit that a *prima facie* case of obviousness has not been established and therefore the rejections of claims 1-21 are unwarranted and should be withdrawn.

Even if a *prima facie* case of obviousness were established, the suggested modification of the system disclosed in the Alden reference would not render claims 1-21 obvious. Specifically, the official action indicates that the Alden reference discloses network node executable code that is operable to execute without modification on a physical networking device corresponding to one of a plurality of emulated networking devices.

However, as explained above, the Alden system relates to providing secure network communications - the Alden reference has nothing to do with systems for testing and validating computer network equipment and software, much less a network emulator comprising a plurality of network node executable images, each image including executable code operable to execute without modification on a physical networking device corresponding to one of a plurality of emulated networking devices, as recited in base claim 1.

Application No. 09/696,860
Filed: October 26, 2000
Group Art Unit: 2123

In fact, the assertion that the Alden system employs network node executable code that is operable to execute without modification on a physical networking device corresponding to an emulated networking device is merely an unsupported conclusion - not a proper reason upon which to base a §103 rejection. Even though the Alden reference indicates that data passed from the pseudo network adapter appears to a TCP/IP protocol stack as an Ethernet packet received from an actual physical device (see column 16, lines 16-22, of Alden et al.), the Alden reference neither teaches nor suggests that code executed by the pseudo network adapter is operable to execute on the actual physical device, nor does the Alden reference teach or suggest that the code executed by the pseudo network adapter is operable to execute without modification on the actual physical device, as recited in base claim 1. Because of these deficiencies in the teachings of Alden et al., the Alden reference cannot render base claim 1 and the claims dependent therefrom obvious.

The Applicants therefore respectfully submit that the rejections of base claim 1 and the claims dependent therefrom under 35 U.S.C. 103(a) are unwarranted and should be withdrawn. Following essentially the same reasoning as outlined above for claim 1, the Applicants further submit that the obviousness

Application No. 09/696,860
Filed: October 26, 2000
Group Art Unit: 2123

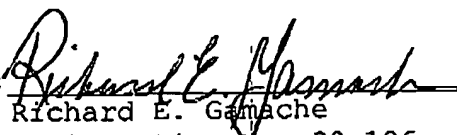
rejections of base claim 12 and the claims dependent therefrom are unwarranted and should be withdrawn.

In view of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. Early and favorable action is respectfully requested.

The Examiner is encouraged to telephone the undersigned Attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

CHIKONG SHUE ET AL.

By: 
Richard E. Gagnache
Registration No. 39,196
Attorney for Applicants

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

REG/lkw
Enclosure
293270

-7-

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313